

A

MARK R. CLIFTON  
REG. NO. 16744-056  
FAIRTON FCI  
P.O. BOX 420  
FAIRTON, N.J. 08320

November 7, 2002

U.S. DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE FOR UNITED STATES ATTORNEYS  
FREEDOM OF INFORMATION / PRIVACY ACT  
600 E. STREET, N.W.; RM. # 7100  
WASHINGTON, D.C. 20530

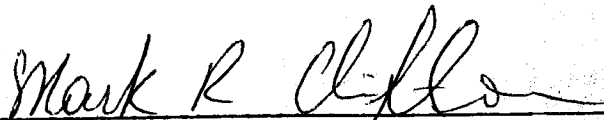
RE: UNITED STATES V MARK CLIFTON  
CASE NO. 7:96-CR-62-2 (MJH)  
DISCOVERY MATERIAL

Dear Department Of Justice :

Pursuant to the Freedom Of Information Privacy Act provided under 5 USC § 552, please send me a picture copy and laboratory analysis of the following evidence used in relation to the above referenced federal prosecution: (1) latent fingerprints labeled as Exhibit Q-2 and (2) latent fingerprints labeled as Exhibit K-1. (see the attached Forensic Laboratory Examination Report) The information requested is necessary and pertinent to prepare an appeal against the aforementioned criminal prosecution. In support thereof an affidavit has been enclosed.

Upon acceptance of this request please send me the available information at your earliest convenience. Your cooperation is greatly appreciated.

Sincerely



Mark R. Clifton

EXHIBIT-A

**AFFIDAVIT IN SUPPORT OF AFFIANT'S  
REQUEST FOR LATENT FINGERPRINT COPIES**

I, Mark R. Clifton, Affiant hereby certify under penalty of perjury pursuant to 28 USC § 1746, the following statements are true and correct to the best of my knowledge:

1. I am the writer / affiant of this affidavit and requestor of the preceding letter requesting information regarding my arrest for which I am presently confined to federal prison.
2. My date of birth is August 6, 1965.
3. My place of birth is \_\_\_\_\_.
4. I am a United States Citizen.
5. My social security number is # 129-62-3677.
6. I am a federal prisoner serving a prison term of three hundred sixty months executed on May 28, 1997.
7. I was arrested on October 16, 1996 in Clinton, North Carolina for conspiracy to possess a schedule II controlled substance in violation of 21 USC § 846 in connection with 21 USC § 841(a)(1).
8. On the above arrest date, I was arrested by the United States Postal Inspector, Drug Enforcement Administration, and Sampson County Drug Task Force of Clinton, North Carolina.
9. A two count indictment was filed against me on November 7, 1996 in Fayetteville Division of the United States District Court for the Eastern District Of North Carolina.
10. I was prosecuted before the Honorable Judge, Malcom J. Howard under case number 7:96-CR-62-2.
11. I was convicted on February 6, 1997 pursuant to allegations charged by the federal government.

Respectfully submitted on this \_\_\_\_\_ day of November, 2002.

---

MARK R. CLIFTON  
REG. NO. 16744-056  
FAIRTON FCI  
P.O. BOX 420  
FAIRTON, N.J. 08320

EXHIBIT-B

U. S. Department of Justice



United States Attorney  
Eastern District of North Carolina

310 New Bern Avenue  
Suite 800, Federal Building  
Raleigh, North Carolina 27601-1461

Telephone (919) 856-4530  
Criminal FAX (919) 856-4487  
Civil FAX (919) 856-4821  
[www.usdoj.gov/usao/nce](http://www.usdoj.gov/usao/nce)

November 22, 2002

Mr. Mark R. Clifton  
#16744-056  
Fairton FCI  
P.O. Box 420  
Fairton, NJ 08320

RE: FOIA REQUEST

Dear Mr. Clifton:

Your letter requesting information pursuant to the Freedom of Information and Privacy Acts has been forwarded to me. As required by Federal Regulation 28 F.C.R. § 16.3, I am sending your letter to:

Freedom of Information Act/Privacy Act Unit  
Executive Office for United States Attorneys  
600 E Street, N.W., Room 7300  
Washington, D.C. 20530  
Phone: 202-616-6757 Fax: 202-616-6478

If you have any questions, or need to facilitate any future FOIA communications, please correspond by mail or phone with the Washington D.C. FOIA Unit. That office coordinates the processing of all FOIA requests for all of the United States Attorney Offices.

All other correspondence to you regarding this matter will be from the Executive Office for United States Attorneys.

Sincerely,

FRANK D. WHITNEY  
United States Attorney

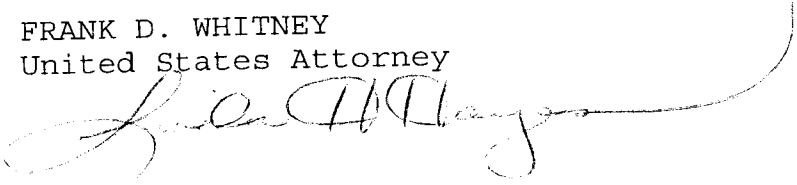
  
LINDA H. HAYES  
Paralegal Specialist  
Criminal Section

EXHIBIT-C



UNITED STATES POSTAL INSPECTION SERVICE

OFFICE OF THE COUNSEL

November 26, 2002

Mr. Mark R. Clifton  
Reg. No. 16744-056  
Fairton FCI  
P.O. Box 420  
Fairton, NJ 08320-0420

RE: FOIA # 2003-0053

Dear Mr. Clifton:

This will acknowledge receipt of your letter dated November 7, 2002, requesting access to certain records that may be in the custody of the U.S. Postal Inspection Service pertaining to you.

There will be a delay in responding to your letter as we are in the process of conducting appropriate file searches pertaining to your request.

As information, it is our policy to process requests for access to Postal Inspection Service records on a first-in, first-out basis. We will be in contact with you as soon as possible concerning this matter.

Sincerely,

*for B. White*

J. G. Eyre  
Information Disclosure Specialist

MARK R. CLIFTON  
REG. NO. 16744-056  
FAIRTON F.C.I.  
P.O. BOX 420  
FAIRTON, N.J. 08320

December 10, 2002

U.S. DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE FOR UNITED STATES ATTORNEYS  
FREEDOM OF INFORMATION / PRIVACY ACT  
600 E. STREET, N.W.: RM.# 7100  
WASHINGTON, D.C. 20530

RE: Request Number 02-3734  
Subject: Self (7:96-CR-62-2 (MJH)

Dear Freedom Of Information / PA :

To prevent any unnecessary delay in regards to processing my request please be advised that my 'project request' is specifically itemized as to particularized information requested. (see attachments)

Sincerely

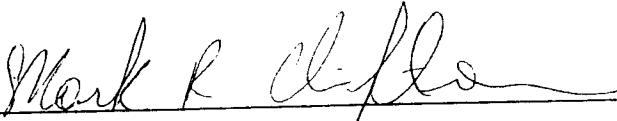
  
Mark R. Clifton

EXHIBIT-E



## U.S. Department of Justice

Executive Office for United States Attorneys  
 Freedom of Information/Privacy Act Unit  
 600 E Street, N.W., Room 7300  
 Washington, D.C. 20530  
 202-616-6757 Fax 202-616-6478

DEC - 4 2007

Request Number: 02-3734Requester: Mark R. CliftonSubject: Self (7:96-CR-62-2(MJH))

Dear Requester:

The Executive Office for United States Attorneys (EOUSA) has received your Freedom of Information Act/Privacy Act (FOIA/PA) request. It has been assigned the above number. Please give us this number if you write about your request. If we need additional information, we will contact you within two weeks.

Your request will be placed in the order in which it was received for processing, unless it is a very large request (Project Request). Then, it will be placed in a separate group of Project Requests, which are also processed in the order received.

EOUSA makes every effort to process most requests within a month (20 working days). There are some exceptions, for example, Project Requests take approximately nine months to process. Requests for "all information about myself in criminal case files" are Project Requests. If you have made such a request, you may either write us and narrow your request for specific items, or we will consider that you have agreed to a due date of nine months from the date of this letter.

By making a FOIA/PA request, you have agreed to pay fees up to \$25, as stated in 28 CFR §16.3(c), unless you have requested a fee waiver. Please note that pursuant to 28 C.F.R. 16.11, we are required to charge fees for time used to search for the documents you have requested and for duplication of all pages released to you. Normally, search time is charged at a rate of \$28 per hour after the first two hours which are free, and duplication fees are \$0.10 per page after the first 100 pages which are free. Please do not send any payment at this time! If we anticipate that fees will exceed \$25 or the amount you have stated in your letter (if greater than \$25), we will normally notify you of our estimate of fees. After we have received your agreement to pay for the expected fees (or you have narrowed your request to reduce fees) and we have processed your request, we will require payment for the accumulated charges before we release documents to you. Without such payment, your request file will be closed without further action.

Sincerely,

Marie O'Rourke  
 Assistant Director  
 FOIA/PA Unit

Form No. 001 - 3/02

EXHIBIT - E1



U.S. Department of Justice

Executive Office for United States Attorneys  
Freedom of Information/Privacy Act Unit  
600 E Street, N.W., Room 7300  
Washington, D.C. 20530  
202-616-6757 Fax 202-616-6478

DEC 30 2002

Request Number: 02-3734 Date of Receipt: 11/18/02

Requester: Mark Clifton

Subject: Self

Dear Requester:

In response to your Freedom of Information Act and/or Privacy Act request, the paragraph(s) checked below apply:

1. ☐ A search for records located in this office has revealed no records.
2. ☒ A search for records located in the United States Attorney's Office(s) for the Eastern District of North Carolina has revealed no records.
3. ☒ The records which you have requested cannot be located.
4. ☐ This office is continuing its work on the other subject/districts mentioned in your request.
5. ☒ This is the final action my office will take on this particular request.

You may appeal my decision in this matter by writing within sixty (60) days, to:

Office of Information and Privacy  
United States Department of Justice  
Flag Building, Suite 570  
Washington, D.C. 20530

Both the envelope and the letter of appeal must be clearly marked "Freedom of Information Act/Privacy Act Appeal."

After the appeal has been decided, you may have judicial review by filing a complaint in the United States District Court for the judicial district in which you reside or have your principal place of business; the judicial district in which the requested records, if any, are located; or in the District of Columbia.

Sincerely,

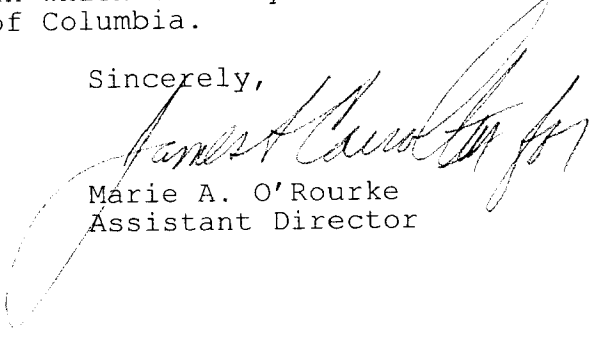
  
Marie A. O'Rourke  
Assistant Director

EXHIBIT-F

MARK CLIFTON  
REG. NO. 16744-056  
FAIRTON F.C.I.  
P.O. BOX 420  
FAIRTON, N.J. 08320

January 7, 2003

OFFICE OF INFORMATION and PRIVACY  
UNITED STATES DEPARTMENT OF JUSTICE  
FLAG BUILDING, SUITE 570  
WASHINGTON, D.C. 20530

RE: FREEDOM OF INFORMATION ACT APPEAL  
REQUEST NUMBER: 02-3734

Dear FOIA / PA

This is a notice to appeal a decision given by EOUSA / FOIA on December 30, 2002 regarding my request for pictured fingerprint copies used against me in a criminal prosecution. Pursuant to appeal process, please direct EOUSA / FOIA to forward me all information requested.

EOUSA / FOIA asserted, a search for records located in the United States Attorney's Office for the Eastern District of North Carolina has revealed no records and that the requested records cannot be located,

The records requested, however, were filed in the clerk's office of the given court, used to incriminate me and to link me to illegal criminal activity which I did not commit. Requested records are therefore necessary and pertinent to challenge my criminal conviction.

WHEREFORE, I, Mark Clifton request and prays that relief is Granted.

Sincerely

  
\_\_\_\_\_  
Mark Clifton

EXHIBIT-G





U.S. Department of Justice

Office of Information and Privacy

Telephone: (202) 514-3642

Washington, D.C. 20530

Mr. Mark Clifton  
Register No. 16744-056  
Fairton Federal Correctional Institution  
Post Office Box 420  
Fairton, NJ 08320

Re: EOUSA No. 02-3734

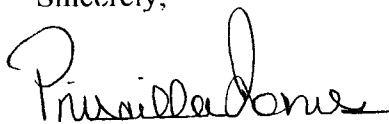
Dear Mr. Clifton:

This is to advise you that your administrative appeal from the action of the Executive Office for United States Attorneys on your request for information from the files of the Department of Justice was received by this Office on January 15, 2003.

The Office of Information and Privacy, which has the responsibility of adjudicating such appeals, has a substantial backlog of pending appeals received prior to yours. In an attempt to afford each appellant equal and impartial treatment, we have adopted a general practice of assigning appeals in the approximate order of receipt. Your appeal has been assigned number **03-1129**. Please mention this number in any future correspondence to this Office regarding this matter.

We will notify you of the decision on your appeal as soon as we can. The necessity of this delay is regretted and your continuing courtesy is appreciated.

Sincerely,



Priscilla Jones  
Administrative Specialist

EXHIBIT - H

MARK CLIFTON  
REG. NO. 16744-056  
FAIRTON F.C.I.  
P.O. BOX 420  
FAIRTON, N.J. 08320

May 20, 2003

UNITED STATES POSTAL INSPECTION SERVICE  
NATIONAL FORENSIC LABORATORY  
DENNIS M. GRISWOLD, POSTAL INSPECTOR  
P.O. BOX 1450  
WILMINGTON, N.C. 28402-1450

RE: CASE NO.: 661-1198768-PMN(1); PE-07270 (1)  
TOOLMARK EXAMINATION

Dear U.S. Postal Inspector:

I would like to obtain a copy of photographed documents filed with this agency regarding a criminal investigation. If there is a purchasing fee, please send me the cost to obtain a copy of photographed latent fingerprints marked as exhibits Q-1 and Q-2 regarding the above referenced matter. (see attached letter)

Sincerely


  
Mark Clifton

EXHIBIT-I



FORENSIC LABORATORY EXAMINATION REPORT

UNITED STATES POSTAL INSPECTION SERVICE  
NATIONAL FORENSIC LABORATORY  
22433 RANDOLPH DRIVE  
DALLAS, VA 20104-1000

January 14, 1997

Case Number 661-1198768-PMN(1); FP-07270(2)  
Latent Print Examination  
Date of Requests November 15 and December 23, 1996

D. M. Griswold  
Postal Inspector  
P.O. Box 1450  
Wilmington, NC 28402-1450

**PROBLEM:** Examine Exhibits Q-1 and Q-2 for latent prints of value for identification and compare them with the inked finger prints of Mark R. Clifton, K-1.

**FINDINGS:** Twelve latent finger prints and three latent palm prints were developed on Exhibit Q-2. No latent prints were developed on Exhibit Q-1.

One latent finger print developed on the box, Q-2, was identified as having been made by Mark R. Clifton, K-1. This latent finger print could not have been made by any other person.

The other latent prints remain unidentified.

**REMARKS:** The latent prints developed were photographed for our files. The inked finger prints submitted will be retained for possible inclusion in PAFIS.

**EXHIBITS:** Q-1 and Q-2 are enclosed under registered mail number R229 074 586.

  
Kenneth O. Smith  
Forensic Latent Print Analyst

EXHIBIT-J



**U.S. Department of Justice**

Office of Information and Privacy

Telephone: (202) 514-3642

Washington, D.C. 20530

MAY 21 2003

Mr. Mark Clifton  
Register No. 16744-056  
Federal Correctional Institution      Re: Appeal No. 03-1129  
Post Office Box 420                      Request No. 02-3734  
Fairton, NJ 08320                      RLH:JYC:NSQ

Dear Mr. Clifton:

You appealed from the action of the Executive Office for United States Attorneys on your request for access to records concerning fingerprint evidence in your criminal case.

After carefully considering your appeal, and as a result of discussions between EOUSA personnel and a member of my staff, the EOUSA has conducted a further search and located records which may be responsive to your request. In light of this fact, I have decided to remand your request to the EOUSA for processing of these records. The EOUSA will provide any responsive and releasable portions of those records to you directly. If you are dissatisfied with the ultimate action on those records, you may appeal again to this Office.

If you are dissatisfied with my action on your appeal, you may seek judicial review in accordance with 5 U.S.C. § 552(a)(4)(B).

Sincerely,

A handwritten signature in black ink, appearing to read "Richard L. Huff", is written over a horizontal line.

Richard L. Huff  
Co-Director

EXHIBIT-K

MARK CLIFTON  
REG. NO. 16744-056  
FAIRTON F.C.I.  
P.O. BOX 420  
FAIRTON, N.J. 08320

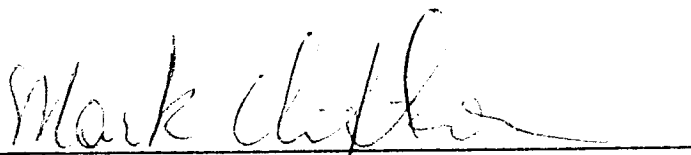
September 22, 2003

EXECUTIVE OFFICE FOR U.S. ATTORNEYS  
FOIA / PA UNIT  
600 E st., N.W. RM. # 7300  
WASHINGTON D.C. 20530

Dear Sir / Madam:

I am inquiring about request no. 02-3734 which was filed with your agency November 18, 2002 and was appealed to the office of information and privacy. I am in receipt of a letter from their office stating that they remanded my request to your agency for processing. I have not received a response from your office. Please send me a response upon your acceptance of this letter. The requested information is very pertinent to my present imprisonment and necessary to file a post conviction motion for relief.

Thank You

  
\_\_\_\_\_  
Mark Clifton

CC: File

EXHIBIT - L



UNITED STATES POSTAL INSPECTION SERVICE

OFFICE OF COUNSEL

November 28, 2003

Mr. Mark Clifton  
Reg. No. 16744-056  
Fairton F.C.I.  
P.O. Box 420  
Fairton, NJ 08320-0420

RE: FOIA # 2003-0053

Dear Mr. Clifton:

This is in further reference to your letters dated November 7, 2002, and May 20, 2003, requesting, pursuant to the Freedom of Information/Privacy Acts, access to latent fingerprints labeled as Exhibits Q-1, Q-2 and Exhibit K-1.

Enclosed are two pages of record material (Exhibits K-1 and Q-2) which can be released to you in their entirety. Since no latent fingerprints were developed on Exhibit Q-1 this record is not available for disclosure. Any latent fingerprints which may have been developed on Exhibit Q-2 would be exempt from disclosure under section 552(b)(6), where release of personnel and similar files would constitute a clearly unwarranted invasion of personal privacy; and section 552(b)(7)(C), where disclosure could reasonably be expected to constitute an unwarranted invasion of personal privacy.

As provided in title 39, Code of Federal Regulations, part 265, you have a right to appeal this decision. A copy of the appeal procedure is enclosed.

Sincerely,

M. R. Baxter  
Information Disclosure Technician

Enclosures

EXHIBIT - M

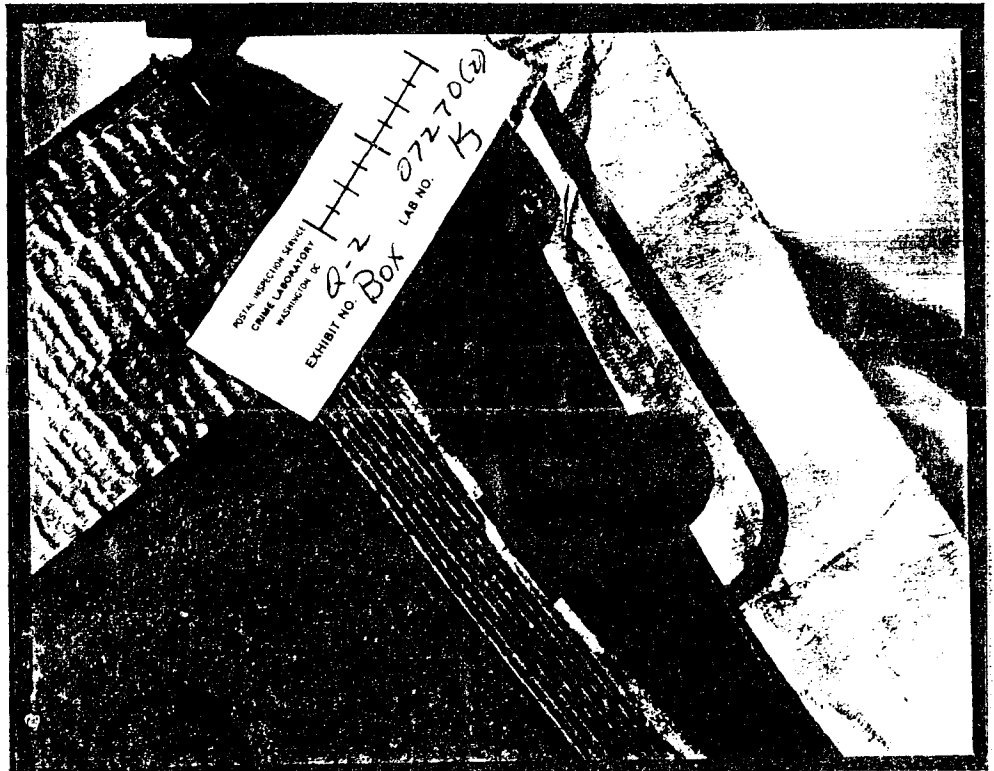


EXHIBIT-N

LEAVE BLANK

TYPE OR PRINT ALL INFORMATION IN BLACK

LAST NAME NAM FIRST NAME CLIFTON MIDDLE NAME MARK

Inspection Service  
Exhibit

Label 113, July 1987

STATE USAGE

SIGNATURE OF PERSON FINGERPRINTED

THIS DATA MAY BE COMPUTERIZED IN LOCAL, STATE AND NATIONAL FILES

DATE SIGNATURE OF OFFICIAL TAKING FINGERPRINTS

SPRINGER POSS WEAP LOADED FIREARM

FINAL DISPOSITION

ALIASES

CONTRIBUTOR

ORI

NY0303000

PD

NEW YORK NY

DATE OF BIRTH DOB

Month 08 Day 05 Year 1955

DATE ARRESTED OR RECEIVED DOA

08/25/82

SEX

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EYES

BRO

HAIR

BCK

PLACE OF BIRTH DOB

NEW YORK

YOUR NO. OCA

K82034978L

FBI NO. FBI

SID NO. SID

4881918Q

SOCIAL SECURITY NO. SOC

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CLASS

REF

1033C

NCIC CLASS - FPC

CAUTION

☐



EXHIBIT-0





U.S. Department of Justice

Executive Office for United States Attorneys  
Freedom of Information/Privacy Act Staff  
600 E Street, N.W., Room 7300  
Washington, D.C. 20530  
202-616-6757 Fax 202-616-6478

JUN 20 2004

Request Number: 02-3734 Date of Receipt: 04/21/2004

Requester: Mark R. Clifton Subject: Latent fingerprints labeled as Exhibit Q-2 and latent fingerprints labeled as Exhibit K-1

Dear Requester:

This letter constitutes a supplemental reply from the Executive Office for United States Attorneys, the official recordkeeper for all records located in this office and the various United States Attorney's offices. In response to your Freedom of Information Act and/or Privacy Act request, the paragraph(s) checked below apply:

1. ☒ A review of the material revealed documents that originated with another government component. **These records were found in the U.S. Attorney's Office files and may or may not be responsive to your request.** These records were referred to the following components listed for review and direct response to you:

**Drug Enforcement Administration (14 Pages Referred)**  
**United States Postal Service (16 Pages Referred)**

2. ☐ The records responsive to your request have been destroyed pursuant to Department of Justice guidelines.
5. ☐ The Freedom of Information Act only applies to records already in existence and does not require an agency to conduct research, create new records, or answer questions disguised as FOIA requests.
6. ☐ Your request concerns material which is publicly available through the Government Printing Office. You can obtain/purchase a copy of the requested material by writing to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.
7. ☐ This office is continuing its work on the other subject/districts mentioned in your request.
8. ☒ **This is the final action my office will take on your request.**

You may appeal my decision in this matter by writing within sixty (60) days, to:

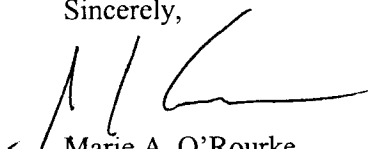
Office of Information and Privacy  
United States Department of Justice  
Flag Building, Suite 570  
Washington, D.C. 20530

Both the envelope and the letter of appeal must be clearly marked "Freedom of Information Act/Privacy Act Appeal."

EXHIBIT-P

After the appeal has been decided, you may have judicial review by filing a complaint in the United States District Court for the judicial district in which you reside or have your principal place of business; the judicial district in which the requested records, if any, are located; or in the District of Columbia.

Sincerely,



Marie A. O'Rourke  
Assistant Director

(Page 2 of 2)

Form No. 005A - 11/02

EXHIBIT - P1



UNITED STATES POSTAL INSPECTION SERVICE

OFFICE OF COUNSEL

August 1, 2005

Mr. Mark R. Clifton  
Reg. No. 16744-056  
Fairton FCI  
P.O. Box 420  
Fairton, NJ 08320-0420

RE: FOIA No. 2005-FPIS-00047

Dear Mr. Clifton:

This is in reference to your Freedom of Information Act request addressed to the U.S. Department of Justice dated July 13, 2005, for access to records regarding you.

Found in the files of the U.S. Department of Justice were 17 pages of record material that originated with the U.S. Postal Inspection Service. These pages were referred to this office for a releasability determination and direct response to you.

Enclosed are 5 pages in question that can be released to you. Certain deletions have been made to this material pursuant to title 5, United States Code, section 552(b)(6), where release of personnel and similar files would constitute a clearly unwarranted invasion of personal privacy; and section 552(b)(7)(C), where disclosure could reasonably be expected to constitute an unwarranted invasion of personal privacy.

In addition to these enclosures, there are 11 other pages which are exempt from disclosure in their entirety in accordance with section 552(b)(2), which concerns records related solely to the internal personnel rules and practices of an agency; section 552(b)(5), which exempts inter-agency or intra-agency memorandums or letters that would not be available by law to a party other than an agency in litigation with the U.S. Postal Service; and section 552(b)(6), where release of personnel and similar files would constitute a clearly unwarranted invasion of personal privacy; and section 552(b)(7)(C), where disclosure could reasonably be expected to constitute an unwarranted invasion of personal privacy.

1735 N. LYNN STREET, ROOM 4039  
ARLINGTON, VA 22209-4039  
TELEPHONE: 703-292-4041  
FAX: 703-292-4083

EXHIBIT-Q & Q1

As provided in title 39, Code of Federal Regulations, part 265, you have a right to appeal this decision. A copy of the appeal procedure is also enclosed.

Sincerely,

M. R. Baxter  
Information Disclosure Technician

Enclosures

Ex-Q1

FREEDOM OF INFORMATION "APPEAL LETTER"

FOI/PA Request No. 02-3734

Date: 8-20-05

To: EOUSA, FOI, Privacy Act  
600 E ST, NW, ROOM 7300  
Washington, DC.  
20530

From: MARK CLIFTON  
 Reg. No. 16744056 Unit 5803  
 P.O. Box 7000  
 Fort Dix, NJ 08640

This is an "Administrative Appeal" under the Freedom of Information Act, Title 5 U.S.C. § 552(a)(6), and pursuant to 28 C.F.R. § 16.8.

On 8-9-05 I received a letter from EOUSA  
 of your agency denying my request for  
LATENT FINGER PRINTS labeled AS EXHIBIT Q-2  
AND LATENT FINGER PRINT labeled AS EXHIBIT R-1

This reply indicated that an "appeal letter" could be sent to you. I am enclosing a copy of my exchange of correspondence with your agency so that you can see exactly what files I have requested and the insubstantial grounds on which my request has been denied.

You will note that your agency has withheld the [entire] or [nearly entire] documents that I requested. Since the FOIA provides that "any reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt,..." I believe that your agency has not complied with the FOIA. I believe that there must be additional segregable portions which do not fall within the FOIA exemptions and which must be released.

Your agency has used the reason of other Agency exemptions to withhold information. [describe specific arguments of exemptions claimed of items withheld from the documents you received.] [attach extra pages if needed]

YOUR OFFICE IS IN POSSESSION OF 14 PAGES OF DOCUMENT FROM DEA AND 16 PAGES FROM POSTAL SERVICE, THEY REFUSED TO PROVIDE ME ON GROUNDS OF DOCUMENTS OBTAINED FROM OTHER AGENCY

If you choose to continue to withhold some of all of the material which was denied in my initial request to your agency, I ask that you send me an index of such material, [Vaughn Index, see Vaughn v. Rosen, 484 F.2d 820, (D.C. Cir. 1973) together with the justification for the denial of each item which is still withheld.

I expect a reply within the twenty working-day time limit pursuant to Title 5 U.S.C. § 552(6)(A)(ii). Please be advised that any refusal to comply with the FOI/PA requirements will lead to a lawsuit.

Sincerely,

Mark Clifton  
 Signature of Requestor

Enclosures:  
 Copy of original FOI/PA request

EXHIBIT - R



U.S. Department of Justice

Office of Information and Privacy

Telephone: (202) 514-3642

Washington, D.C. 20530

**SEP 11 2006**

Mr. Mark R. Clifton  
Register No. 16744-056  
Federal Correctional Institution  
Post Office Box 7000  
Fort Dix, NJ 08640

Re: Appeal No. 05-2711  
Request No. 02-3734  
BVE:GLB:KAM

Dear Mr. Clifton:

You appealed from the action of the Executive Office for United States Attorneys (EOUSA) on your request for access to records pertaining to yourself. Specifically, you requested a "picture copy" and laboratory analysis of latent fingerprints labeled Exhibit Q-2 and latent fingerprints labeled Exhibit K-1.

After carefully considering your appeal, I am affirming EOUSA's action on your request. These records are exempt from the access provision of the Privacy Act of 1974 pursuant to 5 U.S.C. § 552a(j)(2). See 28 C.F.R. § 16.81 (2006). Because these records are not available to you under the Privacy Act, your request has been reviewed under the Freedom of Information Act in order to afford you the greatest possible access to them.

EOUSA located 158 pages in its files, that were deemed non-responsive to your specific request. A member of my staff reviewed these pages and it was determined that EOUSA's response was correct.

EOUSA also located an additional fourteen pages that originated with the Drug Enforcement Administration (DEA) and an additional sixteen pages that originated with the United States Postal Service (USPS). EOUSA referred these pages to DEA and USPS for processing and direct response to you. These referrals were proper and in accordance with Department of Justice regulations. See 28 C.F.R. § 16.4(c) (2006). Inquiries regarding the status of EOUSA's referrals may be sent directly to these components at the following addresses:

Katherine L. Myrick, Chief  
Freedom of Information Operations Unit  
Drug Enforcement Administration  
Department of Justice  
700 Army Navy Drive  
Arlington, VA 22202

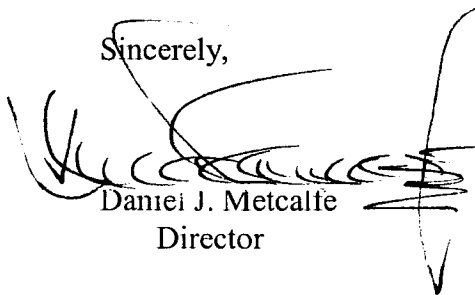
EXHIBIT-S & SI

- 2 -

Jane Eyre, Manager  
Records Office  
United States Postal Service  
475 L'Enfant Plaza West SW.  
Washington, DC 20260-5202

If you are dissatisfied with my action on your appeal, you may seek judicial review in accordance with 5 U.S.C. § 552(a)(4)(B).

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel J. Metcalfe", is written over the printed name. The signature is stylized with a large, sweeping initial "D" and a long horizontal stroke.

Daniel J. Metcalfe  
Director

Ex. 51

October 16, 2006

Katherine L. Myrick, Chief  
Freedom of Information Operations Unit  
Drug Enforcement Administration  
Department of Justice  
700 Army Navy Drive  
Arlington, Virginia 22202

**Re: Status of Executive Office for United States Attorneys'  
referral**

Dear Ms. Myrick:

I had made a request for access to records pertaining to myself and my request was reviewed under the Freedom of Information Act. I directed my request to the Executive Office for United States Attorneys. Specifically, I requested a "picture copy" and laboratory analysis of latent fingerprints labeled Exhibit Q-2 and latent fingerprints labeled Exhibit K-1.

EOUSA located 158 pages in its files that were deemed non-responsive to my specific request. EOUSA also located an additional fourteen pages that originated with the Drug Enforcement Administration (DEA). EOUSA referred these pages to DEA for processing and direct response to me. I was informed that inquiries regarding the status of EOUSA's referral may be sent directly to your office. (See attached copy of appeal decision).

The purpose of my letter is to ascertain the status of that referral and the response from your office. My sincere hope is that your office will be able to furnish me with the specific information I seek. I look forward to hearing from you in the near future. Any assistance afforded me would be greatly appreciated.

Respectfully submitted,

---

Mark R. Clifton  
Reg. No. 16744-056  
FCI Fort Dix (West)  
Unit \_\_\_\_\_  
P.O. Box 7000  
Fort Dix, NJ 08640-0907

EXHIBIT-T



RECORDS OFFICE



October 27, 2006

MARK CLIFTON  
REG No. 16744-056  
FCI – Fort Dix West  
PO BOX 7000  
FORT DIX, NJ 08640-0907

RE: FOIA Case No. 2007-FPRO-00046

Dear Mr. Clifton:

This responds to your Freedom of Information Act (FOIA) request dated October 16, 2006 in which you seek access to Postal Service records.

Based on the information provided by you, the agency official having jurisdiction over the subject matter of your request is Lee Heath, Chief Postal Inspector, 1735 N Lynn St., 4<sup>th</sup> Floor, Arlington VA 22209. I have forwarded your request to that office for action and direct response to you. You may contact Betty White, Information Disclosure Specialist at 703-292-3995.

You will receive a response to your request directly from that office. Please feel free to contact us with any questions.

Sincerely,

A handwritten signature in cursive script that reads "Alice M. Parks".

ALICE M PARKS

cc: Betty White

EXHIBIT-4



UNITED STATES POSTAL INSPECTION SERVICE

OFFICE OF COUNSEL

October 27, 2006

Mr. Mark R. Clifton  
Reg. No. 16744-056  
FCI Fort Dix (West)  
P.O. Box 7000  
Fort Dix, NJ 08640-0907

RE: FOIA No. 2007-FPIS-00019

Dear Mr. Clifton:

This is in further reference to your letter dated October 14, 2006, requesting, pursuant to the Freedom of Information/Privacy Acts, access to certain records that may be in the custody of the U.S. Postal Inspection Service regarding you.

On August 6, 2005, our envelope addressed to you at Fairton FCI, Fairton, NJ was returned, marked "attempted-not known, unable to forward, return to sender".

Enclosed please find our August 1, 2005 letter and attachments.

Sincerely,

A handwritten signature, likely of T. A. Warner, is written in ink. It appears to be the initials "TS" followed by a stylized flourish.

T. A. Warner  
Information Disclosure Technician

Enclosures

EXHIBIT-41

November 8, 2006

Lee Heath  
Chief Postal Inspector  
1735 N. Lynn Street, 4th Floor  
Arlington, Virginia 22209

Attn: Betty White, Information Disclosure Specialist  
Re: Status of Forwarded Request from USPS Records Office  
FOIA Case No. 2007-FPRO-00046

Dear Ms. White:

I had made a Freedom of Information Act (FOIA) request and had directed it to the Executive Office for United States Attorneys. Specifically, I requested a photocopy of the twelve latent fingerprints and three latent palm prints developed from an exhibit known as Exhibit Q-2 and a photocopy of my own inked fingerprints that were submitted for analysis along with two exhibits, one known as Q-1 and one known as Exhibit Q-2.

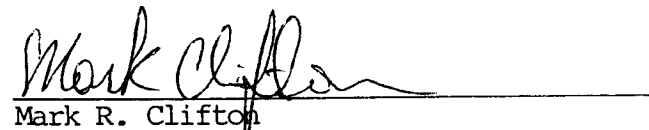
EOUSA located 158 pages in its files that were deemed non-responsive to my specific request. EOUSA also located an additional sixteen pages that originated with the United States Postal Service (USPS). EOUSA referred these pages to USPS for processing and direct response to me.

I then contacted Jane Eyre, Manager, Records Office, United States Postal Service, 475 L'Enfant Plaza SW, Washington, D.C. 20260-0001, to ascertain the status of EOUSA's referral. That office, in turn, referred me to your office. (Please see attached copy of referral letter.)

I'm writing to you to ascertain the status of that referral. After I started this letter, I found a document among my paperwork that might make it easier for you to comply with my request. It's a forensic laboratory examination report from the United States Postal Inspection Service in Dullas, Virginia. (Please see attached copy.) I'm hoping this additional information will prove helpful.

My sincere hope is that your office will be able to furnish me with the specific information I seek. I look forward to hearing from you in the near future. Any assistance afforded me will be greatly appreciated.

Very truly yours,



Mark R. Clifton  
16744-056  
FCI Fort Dix (West)  
P.O. Box 7000  
Fort Dix, New Jersey 08640-0907



UNITED STATES POSTAL INSPECTION SERVICE

OFFICE OF COUNSEL

January 9, 2007

Mr. Mark R. Clifton  
Reg. No. 16744-056  
FCI Fort Dix (West)  
P.O. Box 7000  
Fort Dix, NJ 08640-0907

RE: FOIA No. 2007-FPIS-00041

Dear Mr. Clifton:

This will acknowledge receipt of your letter dated November 8, 2006, requesting, pursuant to the Freedom of Information/Privacy Acts, access to certain records that may be in the custody of the U.S. Postal Inspection Service pertaining to you.

There will be a delay in responding to your letter as we are in the process of conducting appropriate file searches pertaining to your request.

As information, it is our policy to process requests for access to Postal Inspection Service records on a first-in, first-out basis.

Sincerely,

A handwritten signature in cursive script, reading "M. Renee Baxter", is positioned above the typed name.

M. Renee Baxter  
Information Disclosure Technician



UNITED STATES POSTAL INSPECTION SERVICE

OFFICE OF COUNSEL

February 16, 2007

Mr. Mark R. Clifton  
Reg. No. 16744-056  
FCI Fort Dix (West)  
P.O. Box 7000  
Fort Dix, NJ 08640-0907

RE: FOIA No. 2007-FPIS-00041

Dear Mr. Clifton:

This is in further reference to your letter dated November 8, 2006, requesting, pursuant to the Freedom of Information/Privacy Acts, access to certain records that may be in the custody of the U.S. Postal Inspection Service regarding a referral from the Executive Office of United States Attorneys.

Our records indicate that this office previously responded to your latest query by letters dated August 1, 2005, and October 27, 2006.

We have again enclosed another copy of our initial response letter and all releasable pages.

Please be advised that the Freedom of Information Act (FOIA), 5 USC §552, is a records and document statute that permits access only to federal agency records unless the records qualify for one of several exemptions.

The core purpose of the FOIA is to provide the public with information about the conduct of government agencies and does not require the Postal Service to provide you with information that is not contained in its records. The FOIA does not require an agency to create documents in response to an individual's request for information nor is it intended to compel agencies to become *ad hoc* investigators for requesters.

EXHIBIT - X

April 12, 2007

7006 0810 0005 3625 0117

Chief Counsel  
Customer Programs  
U.S. Postal Service  
475 L' Enfant Plaza, SW  
Washington, D.C. 20260-1135

RE: FOIA NO. 2007-FPRO-00046

Dear Chief Counsel,

This is an "Administrative Appeal" under the Freedom of Information Act, title 5 U.S.C. § 552(a)(6), and pursuant to 28 C.F.R. § 16.8.

On March 23, 2007, I received a letter from M. Renee Baxter, Information Disclosure Technician, dated February 16, 2007, of your agency denying my request for a photo-copy of the twelve latent fingerprints and three latent palm developed from an exhibit known as exhibit Q-2 and a photo-copy of my own inked fingerprints that were submitted for analysis along with two exhibits, one known as exhibit Q-1 and the other known as exhibit Q-2. The two exhibits were submitted to the United States Postal Service National Forensic Laboratory at 22433 Randolph Drive, Dulles, Virginia 20104-1000, by D.M. Griswold Postal Inspector, P.O. Box 1450, Wilmington, North Carolina 28402-1450. In a response dated January 14, 1997, Kenneth O. Smith, Forensic Latent Print Analyst, of the National Forensic Laboratory, sent Mr. Griswold a report of his findings. (please see attached copy) This was furnished to the office of Lee Heath, Chief Postal Inspector, to assist in complying with my request.

This reply indicated that an "Appeal Letter" could be sent to you. I am enclosing copies of the majority of my exchange of my correspondence with your agency so that you can see exactly what files I have requested and the insubstantial grounds on which my request has been denied. Please note that on several occasions an inordinate amount of time has passed from the time your agency sent a particular response until I actually received the response. (For example, the response from your agency date August 1, 2005, I didn't receive until November 2006. The delay was probably due to the fact that the Federal Bureau of Prisons moved me from the institution at Fairton, New Jersey to the institution at Fort Dix, New Jersey.)

EXHIBIT - Y & YI

Also please note that most contracts I've had with employees of the USPS have been positive, (See letter of Alice M. Parks, dated October 27, 2006). In contrast, the response from M. Renee Baxter, dated February 16, 2007, wherein, she tells me that, "The core purpose of the FOIA is to provide the public with information about the conduct of government agencies and does not require the Postal Service to provide you with information that is not contained in its records." (The Postal Service's own records confirm that the information I seek is indeed contained in its records.) Ms. Baxter goes on to inform me that, "the FOIA does not require an agency to create documents in response to an individual's request for information nor is it intended to compel agencies to become ad hoc investigators for requesters." The information I seek was the sole basis for the Court's imposition of a 30-year sentence in my case, thus my fervent quest to obtain the information.

You will note that your agency has withheld the entire documents that I requested. Since the FOIA provides that "any reasonable segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt...", I believe that your agency has not complied with the FOIA. I believe that there must be additional segregable portions which do not fall within the FOIA exemptions and which must be released.

If you choose to continue to withhold some of all of the material which was denied in my initial request to your agency, I ask that you send me an index of such material, (Vaughn Index, see Vaughn v. Roven, 484 F. 2d 820 (D.C. Cir. 1973) together with the justification for the denial of each item which is still withheld.

Please be advised that although the denial from your agency was dated February 16, 2007, I did not receive it until March 23, 2007. The cause for the delay can be attributed to the fact that the Federal Bureau of Prisons has once again moved me from the prison at Fort Dix (West) to the prions at Fort Dix (East).

Respectfully submitted,

---

Mark R. Clifton  
 Reg. No. 16744-056  
 FCI Fort Dix (East)  
 P.O. Box 2000  
 Fort Dix, New Jersey 08640-0907

Ex-71

CORPORATE LAW



*UNDELIVERED MAIL - RETURN REASON: ADDRESSEE UNKNOWN*

June 5, 2007

Mr. Mark R. Clifton  
Reg. No. 16744-056  
FCI Fort Dix (East)  
P.O. Box 2000  
Fort Dix, NJ 08640-0907

Freedom of Information Act Appeal 07-082

Dear Mr. Clifton:

This responds to your letter dated April 12, 2007, which was received in our office on May 8, 2007. In your letter, you appeal the response to your request for information pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552.

I. Background

Your appeal concerns two sets of correspondence which are described below.

A. Fingerprint Records

By letters dated November 7, 2002, and May 20, 2003, you requested access to latent fingerprint records labeled Exhibits Q-1, Q-2 and K-1 in the custody of the U.S. Postal Inspection Service. In your letter of April 12, 2007, you stated that your request for this information was denied. Review of Postal Inspection Service records reveals that M.R. Baxter, Information Disclosure Technician, Postal Inspection Service, responded your request by letter dated November 23, 2003. Enclosed with that letter were two pages of record material (Exhibits K-1 and Q-2). The Inspection Service informed you that no latent fingerprints were developed on Exhibit Q-1; consequently, no responsive records were available for disclosure in relation to that request. You were informed that access to any latent fingerprints developed on Exhibit Q-2 were exempt from disclosure under FOIA Exemptions 6 and 7(C).<sup>1</sup> 5 U.S.C. § 552(b)(6), (b)(7)(C).

By letter dated November 7, 2002, addressed to the U.S. Department of Justice, you requested access to records concerning you. On June 29, 2005, the U.S.

<sup>1</sup> The latent fingerprints that were withheld concerned an unidentified person.

EXHIBIT-2



- 2 -

## B. Other Records Pertaining to You

Department of Justice, Executive Office for United States Attorneys (EOUSA), referred 17 pages of records material that originated with this agency to the U.S. Postal Inspection Service for processing. Thereafter, by letter dated August 1, 2005, the Postal Inspection Service granted your request in part. You were granted five pages of material with certain redactions. The redactions were made to the material pursuant to Exemptions 6 and 7(C). 5 U.S.C. § 552(b)(6), (b)(7)(C). Eleven other pages of material were identified as exempt from disclosure in their entirety. These pages were withheld pursuant to FOIA Exemptions 2, 5, 6, 7(C). 5 U.S.C. § 552(b)(2), (b)(5), (b)(6) and (b)(7)(C).

By letter dated October 14, 2006, you requested information concerning the status of the referral from EOUSA to the U.S. Postal Inspection Service. By letter dated October 27, 2006, the Postal Inspection Service responded to your request. The Postal Inspection Service informed you that on August 6, 2005, the material addressed to you at the Fairton Federal Correctional Institution (FCI), Fairton, New Jersey was returned, marked "attempted-not known, unable to forward, return to sender." As a result, the Postal Inspection Service enclosed with its October 27 letter a second copy of the August 1, 2005, response and its attachments.

By letter dated November 8, 2006, you duplicated your request for the status of the EOUSA referral to the U.S. Postal Inspection Service. The Postal Inspection Service responded to your request by letter dated February 16, 2007. In your appeal, you allege that the Postal Inspection denied your request for documents under the FOIA. However, review of the records shows that that the Postal Inspection Service informed you that it had responded to your requests. The Inspection Service enclosed a third set of documents accompanied by the initial response letters of August 1, 2005 and October 27, 2006.<sup>2</sup>

## II. Analysis

After careful review, we are upholding the initial decisions provided on November 23, 2002 and August 1, 2005 for the reasons set forth below.

As background, the FOIA generally requires government agencies to disclose records within their possession. The Act contains several exemptions, however, that permit agencies to withhold certain records. 5 U.S.C. § 552(b)(1)-(9). With exception of material provided to you on November 23, 2003, and again enclosed with this letter, and records provided to you by letter dated August 1, 2005, the records referenced above were properly withheld from disclosure pursuant to FOIA Exemptions 2, 5, 6, and 7(C). 5 U.S.C. § 552(b)(2), (b)(5), (b)(7)(C).

---

<sup>2</sup> We note that you included with your April 12 appeal a copy of the U.S. Postal Inspection Service documents.

- 3 -

Exemption 2 applies to information concerning routine, internal matters of no interest to the general public. See Department of the Air Force v. Rose, 425 U.S. 352, 369 (1976). Examples of information that may be withheld pursuant to Exemption 2 are purely administrative documents that only relate to matters of internal significance, such as routing slips. In the instant matter, a case file checklist was properly withheld under Exemption 2.

Records were also properly withheld under Exemption 5. Exemption 5 permits agencies to withhold "inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency." 5 U.S.C. § 552(b)(5). The exemption permits agencies to withhold records that would be privileged in the context of civil discovery. NLRB v. Sears, Roebuck & Co., 421 U.S. 132, 149 (1975). One privilege recognized under Exemption 5 is the "deliberative process" privilege. This privilege is intended to protect the free flow of ideas in the decision-making process of government agencies, and it protects internal documents that are both "predecisional" and "deliberative." See NLRB v. Sears, Roebuck & Co., 421 U.S. at 150-52. Once it is established that records are "intra-agency" and "predecisional," the records are exempt from disclosure under FOIA Exemption 5 to the extent that they contain "deliberative" information. In this case, the notes and memoranda by the forensic examiners and postal examiners are "deliberative" as that term has been defined for purposes of Exemption 5 by the federal courts. The withheld information in this case includes the requests for laboratory examinations, forensic reports, analyses, conclusions, and memoranda containing recommendations of Postal Inspectors and forensic examiners who prepared the memoranda. This type of information is "deliberative" within the meaning of FOIA Exemption 5. See Coastal States Gas Corp. v. Dep't of Energy, 617 F.2d 854, 866 (D.C. Cir. 1980). Even factual information may be protected by the deliberative process privilege when the information is "inextricably intertwined" with deliberative information, see EPA v. Mink, 410 U.S. 73, 90-93 (1973), or when disclosure of factual material would reveal the deliberative process of the agency, see National Wildlife Federation v. United States Forest Service, 861 F.2d 1114, 1118-19 (9<sup>th</sup> Cir. 1988). Accordingly, we are upholding the decision of the Inspection Service to withhold documents in their entirety pursuant to Exemption 5.

The initial decisions of the Inspection Service also relied in part on FOIA Exemption 6, which permits agencies to withhold "personnel files and medical files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." 5 U.S.C. § 552(b)(6). However, because the records also qualify for the application of Exemption 7(C), and Exemption 7(C) provides greater protection of personal privacy than Exemption 6, we will limit our discussion to the application of Exemption 7(C). FOIA Exemption 7(C) applies to "records or information compiled for law enforcement purposes." 5 U.S.C. § 552(b)(7). Records of agency investigations that focus on specifically alleged acts which, if proved, could result in criminal or civil sanctions are "compiled for law enforcement purposes" within the meaning of FOIA Exemption 7. Stern v. FBI, 737 F.2d 84, 89 (D.C. Cir. 1984).

- 4 -

Exemption 7(C) permits agencies to withhold records compiled for law enforcement purposes the disclosure of which "could reasonably be expected to constitute an unwarranted invasion of personal privacy." 5 U.S.C. § 552(b)(7)(C). The exemption protects the privacy interests of any individuals mentioned in records compiled for law enforcement purposes, whether they are the subjects of an investigation, witnesses, or third parties. King v. Department of Justice, 830 F.2d 210, 233 (D.C. Cir. 1987). Exemption 7(C) protects both information that is in itself embarrassing or intimate, and information that might cause adverse effects on an individual's life if it were disclosed. L & C Marine Transport, Ltd. v. United States, 740 F.2d 919, 923 (11<sup>th</sup> Cr. 1984). An individual does not lose his or her privacy interest under Exemption 7(C) because the individual's identity may be otherwise discoverable, id. at 922, or even if the individual's name has been disclosed elsewhere, Kirk v. Department of Justice, 704 F. Supp. 288, 292 (D.D.C. 1989). The protection of personal privacy under Exemption 7(C) continues after an investigation is closed, and it is not destroyed by the passage of time. See Keys v. Department of Justice 830 F.2d 337, 348 (D.C. Cir. 1987).

FOIA Exemption 7(C) requires us to weigh the privacy interests of the named and unnamed individuals against the public interest, if any, that would be served by disclosure. Department of Justice v. Reporters Committee for Freedom of the Press, 489 U.S. 749, 762 (1989). In this case, there is no public interest in disclosure sufficient to outweigh the individuals' privacy interests. Although you may have a strong personal interest in obtaining the information, the FOIA requires that we balance the individuals' privacy interests against the interest of the public in general—shedding light on the conduct of government agencies—and not the particular interest of the requester. Department of Justice v. Reporters Committee for Freedom of the Press, 489 U.S. at 771-73. Disclosure of the withheld information would not contribute significantly to the public's knowledge of the operations and activities of the Postal Service. Therefore, the records are exempt from disclosure under FOIA Exemption 7(C), and were properly withheld.

We also note that the Privacy Act does not provide you with a right of access to the records you are requesting. Under the Act, individuals generally are entitled to obtain access to records concerning themselves that are maintained in a system of records covered by the Act. See 5 U.S.C. § 552a(d)(1). The Privacy Act contains exemptions, however, that permit agencies to exempt certain systems of records from the Act's access provisions. These exemptions apply to systems of records maintained for law enforcement purposes, see 5 U.S.C. § 552a(j)(2) and (k)(2); and the Postal Service has issued regulations that apply these exemptions to the investigative files of the Postal Inspection Service. See 39 C.F.R. § 266.9(b)(2). Because the records you are requesting are maintained in Inspection Service investigative files, the Privacy Act does not require the Postal Service to provide you with access to the records.

Finally, in your appeal, you request a "Vaughn Index" which describes each withheld record and specifies the exemption or exemptions that apply to the record. In some

- 5 -

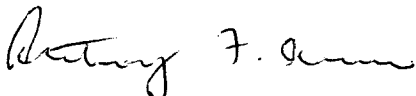
cases, courts engaged in judicial review of denials of FOIA requests have required agencies to submit detailed indices of withheld records. See, e.g., Vaughn v. Rosen, 484 F.2d 820 (D.C. Cir. 1973), cert. denied, 415 U.S. 977 (1974). A Vaughn Index is not required, however, at the administrative level of review. See Mayock v. INS, 714 F. Supp. 1558, 1567 (N.D. Cal. 1989), rev'd and remanded on other grounds sub nom. Mayock v. Nelson, 938 F.2d 1006 (9th Cir. 1991). "Agencies need not provide a Vaughn Index until ordered by a court after the plaintiff has exhausted the administrative process." Judicial Watch, Inc. v. Clinton, 880 F. Supp. 1, 11 (D.D.C. 1995), aff'd, 76 F.3d 1232 (D.C. Cir. 1996). Therefore, we decline to provide you with a Vaughn Index.

As a courtesy, we are enclosing copies of the initial response letters dated November 23, 2003, August 1, 2005, October 27, 2006, and February 16, 2007, accompanied by all segregable, releasable documents previously disclosed to you.

This is the final decision of the Postal Service on your right of access pursuant to the FOIA to these records. You may obtain judicial review of this decision by bringing suit for that purpose in the United States District Court for the district in which you reside or have your principal place of business, the district in which the records are located, or in the District of Columbia.

Thank you for your interest.

For the General Counsel,



Anthony F. Alverno  
Chief Counsel  
Customer Programs

Enclosures

cc: Ms. Baxter  
Ms. Eyre

1 this analysis?

2 A Yes it is.

3 Q Your Honor I tender the admission of number 15.

4 **THE COURT:** No objections?

5 **MR. GILBERT:** No objections

6 **THE COURT:** Let 15 be admitted.

7 Q Now did you compare the latent print. That you  
8 found on exhibit number 1 to the inked impressions of the  
9 Defendant Mark Clifton on number 15?

10 A Yes I did.

11 Q And as a result of that were you able to form  
12 any opinion or conclusions as a result of your  
13 examination and comparison?

14 A Yes . The one latent print that appears on the  
15 edge of the card board box in the area I'm pointing to  
16 here I was able to identify as having been made by the  
17 left index finger of Mark Clifton. As shown on the  
18 Governments exhibit 15, and this latent print could not  
19 have been made by any other person.

20 Q And did you in that capacity then prepare a  
21 report to that effect?

22 A Yes I did.

23 Q Let me show you what's been marked as Governments  
24 exhibit number 16. Can you identify that document?

25 A Yes I can. It is my original Report that bears

1           **THE COURT:**   Well you probably would, sounds  
2           like you probably should, but Mr. Bennett may want to get  
3           it on the record. Are you finished, Mr. Bennett?

4           **MR. BENNETT:**   I have about one more question,  
5           then I was going to ask the Court qualify him.

6           **THE COURT:**   All right. Go ahead.

7           **MR. BENNETT:**   All right. Thank you, Your  
8           Honor.

9           Q     And the final thing is have you had an occasion  
10          to qualify as an expert in the science of fingerprint  
11          identification in prior courts?

12          A     Yes, in excess of 200 times at the trial level.

13          **MR. BENNETT:**   And your Honor, at this time we  
14          would tender Mr. Smith as an expert in the field of  
15          fingerprint identification.

16          **MR. GILBERT:**   No objection.

17          **THE COURT:**   All right. Hearing no objection,  
18          the Court will allow Mr. Smith to testify as an expert in  
19          his field. Now members of the jury, let me tell you what  
20          this means. If scientific, technical, or other  
21          specialized knowledge might assist you in understanding  
22          the evidence or as determining a fact and issue, a  
23          witness qualified as an expert by knowledge, skill,  
24          training or education, may testify and state his opinion  
25          concerning such matters. The regular witnesses cannot